

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**LEAGUE OF UNITED LATIN  
AMERICAN CITIZENS, *et al.*,**

*Plaintiffs,*

**EDDIE BERNICE JOHNSON, *et al.*,**

***Plaintiff-Intervenors,***

**V.**

**GREG ABBOTT**, in his official capacity  
as Governor of the State of Texas, *et al.*,

***Defendants.***

**THE UNIVERSITY OF CHICAGO**

**EP-21-CV-00259-DCG-JES-JVB**  
**[Lead Case]**

**&**

## All Consolidated Cases

**MEMORANDUM OPINION AND ORDER<sup>1</sup>**

The United States and a legion of private plaintiffs have alleged that the redistricting plans enacted by Texas following the 2020 census violate the Voting Rights Act (“VRA”) and the United States Constitution. In this consolidated redistricting case, numerous discovery disputes have arisen regarding the invocation of the legislative privilege by Texas legislators and associated individuals. This Court resolved several such discovery disputes in its December 12, 2023 order, which applied the law on legislative privilege as articulated in *La Union del Pueblo Entero v. Abbott*, 68 F.4th 228 (5th Cir. 2023) (“*Hughes*”). See ECF No. 746.

Now before this Court are the United States’ and LULAC plaintiffs’ respective motions to unseal portions of deposition testimony given by the National Republican Redistricting Trust (“NRRT”) and Adam Kincaid. *See* ECF No. 742 (United States); ECF No. 743 (LULAC).

As was true for our previous order, the Fifth Circuit’s articulation of the legislative privilege in *Hughes* directly affects the instant discovery dispute. *See* ECF No. 746. So, the rulings regarding the legislative privilege contained in this Court’s December 12, 2023, order remain

<sup>1</sup>Judge David C. Guaderrama respectfully dissents from this Memorandum Opinion and Order for essentially the same reasons he articulated in ECF No. 771. *See League of United Latin Am. Citizens v. Abbott*, No. EP-21-CV-00259-DCG-JES-IVB, --- F. Supp. 3d ---, 2023 WL 8880313, at \*12-78 (W.D. Tex. Dec. 21, 2023) (Guaderrama, J., dissenting).

applicable to the parties' instant dispute. *See id.* We therefore incorporate those rulings and conclude as follows on the pending motions to compel:

## **I. The Legislative Privilege.**

The United States asserts that legislative privilege is forfeited for portions of deposition testimony for which counsel failed timely to raise a privilege objection. Theorizing that forfeiture triggers at the precise moment a deponent begins answering a question, the United States contends that all objections lodged after that moment are necessarily “untimely” and should be overruled. *See* ECF No. 749 at 1–2.

The United States' position is not entirely accurate. Though it correctly observes that improperly lodged objections waive the legislative privilege,<sup>2</sup> an untimely objection is not always an indication that the deponent “selectively disclosed portions of the privileged” material. *Excel Corp.*, 197 F.3d at 206; *see also id.* at 206–07 & nn.12, 17. Accordingly, if the privilege objection is raised shortly after the deponent began responding, we find that the privilege was properly asserted. But, if the objection was only so untimely that the deponent provided a full answer and explanation of the question, or counsel raised it only after another question was asked, we find the privilege was waived.

Additionally, LULAC plaintiffs point to several assertions of the privilege over material that has already been released to the public. *See* ECF No. 752 at 2; *see also* ECF Nos. 14–16, 18. As explained in our previous order, the legislative privilege is waived only when legislators send privileged documents to third parties *outside* the legislative process. *See* ECF No. 746 at 14 (quoting *Hughes*, 68 F.4th at 237). Accordingly, we find that the privilege has been waived where privilege material has been made publicly available to third parties not brought into the legislative process.

Applying that rationale, the Court **ORDERS**:

- The United States' motion to compel legislative deposition testimony, ECF No. 742, and joined by LULAC, ECF No. 743, is granted in part and denied in part.

---

<sup>2</sup> *See* ECF No. 746 at 18 (citing *Nguyen v. Excel Corp.*, 197 F.3d 200, 206 n.12 (5th Cir. 1999)).

As was the case with our prior ruling, *see generally* ECF No. 746, the Court has given individual, line-by-line, rulings for each invocation of the legislative privilege using the legend provided on the following page.

<b>CODE</b>	<b>DISPOSITION</b>
<b>LP1</b>	For the reasons stated in the court's order, the court finds the legislative privilege applies and has not been waived. Legislative privilege applies because the document or communication was created, received, or gathered in the sphere of legitimate legislative activity. Privilege has not been waived because the document or communication has not been publicly revealed. Nor is this an extraordinary case in which the legislative privilege must yield.
<b>LP2</b>	For the reasons stated in the court's order, the court finds the legislative privilege applies and has not been waived. Legislative privilege applies because the document or communication was created, received, or gathered in the sphere of legitimate legislative activity at the direction of, instruction of, or for a legislator. Privilege has not been waived because the document or communication has not been publicly revealed. Nor is this an extraordinary case in which the legislative privilege must yield.
<b>LP3</b>	The legislative privilege has been waived because this document or communication is public information.
<b>LP4</b>	The legislative privilege does not apply to matters that are neither inherently legislative nor indicative of a legislator's motives, such as routine administrative or executive matters.
<b>Improper objection</b>	The state defendants have not made a proper objection because their invocation of the legislative privilege occurred after plaintiffs' question was posed. <i>See Nguyen v. Excel Corp.</i> , 197 F.3d 200, 206 n.12 (5th Cir. 1999).
<b>No response; No objection</b>	State defendants did not meet their burden of demonstrating that the privilege applies.

So ORDERED and SIGNED this 3rd day of June 2024.

---

**JERRY E. SMITH**  
**UNITED STATES CIRCUIT JUDGE**

*And on behalf of:*

**Jeffrey V. Brown**  
**United States District Judge**  
**Southern District of Texas**

Deponent	Page Number	Line Number	(I)(A) Fact-based Information	(I)(B) Privilege Log Information	(I)(C) Lack Knowl. or Refuse to Answer	(II) Privilege Should Yield	RULING
Adam Kincaid	98	18	X	X		X	LP2.
Adam Kincaid	99	16	X	X		X	LP2.
Adam Kincaid	100	16	X	X	X	X	LP2.
Adam Kincaid	101	2	X	X	X	X	LP2.
Adam Kincaid	101	19	X			X	LP2.
Adam Kincaid	129	21	X	X		X	LP2.
Adam Kincaid	130	22				X	LP2.
Adam Kincaid	131	18				X	LP2.
Adam Kincaid	132	1	X	X		X	LP2.
Adam Kincaid	132	17	X			X	LP2.
Adam Kincaid	262	3	X	X		X	LP2.
Adam Kincaid	262	19	X	X		X	LP2.
Adam Kincaid	263	19	X			X	LP2.
Adam Kincaid	264	6				X	LP2.
Adam Kincaid	265	14			X	X	LP2.
Adam Kincaid	265	23				X	LP2.
Adam Kincaid	287	13				X	LP2.
Adam Kincaid	318	8	X	X		X	LP2.
Adam Kincaid	318	24	X			X	LP2.
NRRT	27	12	X			X	LP2.
NRRT	27	20	X			X	LP2.
NRRT	30	22	X	X		X	LP2.
NRRT	47	2	X			X	LP2.
NRRT	48	8				X	LP2.
NRRT	48	22	X			X	LP2.
NRRT	127	1	X		X	X	LP2.
NRRT	134	16	X			X	LP2.
NRRT	134	18	X			X	LP2.
NRRT	135	21	X			X	LP2.
NRRT	135	23	X			X	LP2.
NRRT	137	5	X			X	LP2.
NRRT	137	17	X		X	X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
98:18	98:15- 99:2	Page: 98 15 Q. Great. The question was what did 16 you discuss with Senator Joan Huffman when you met 17 with her regarding Texas redistricting. 18 ATTORNEY HUNKER: Again, objection 19 on legislative privilege grounds. It's 20 under Document 282. 21 THE WITNESS: We met with Senator 22 Huffman and Anna Makin, "we" being not 23 royal, but "we" being me and Chris to 24 discuss the congressional map that I had 25 produced under Chris's direction for Page: 99 1 proposal to the Texas senate. Texas 2 legislature.	90:19-90:22, July 12, 2022  113:25- 114:13, July 12, 2022  115:4-115:15, July 12, 2022  181:23-182:5, July 12, 2022		X	X			X	LP2.
99:16	99:14-22	Page: 99 14 Q. What did you discuss with Senator 15 Huffman regarding the Unified map? 16 ATTORNEY HUNKER: Again, objection 17 on legislative privilege grounds. 18 THE WITNESS: We just walked 19 through the map, answered any questions 20 that she had about it and that Anna had 21 about it. Generally, that's what the 22 conversation was about.	90:19-90:22, July 12, 2022  113:25- 114:13, July 12, 2022  115:4-115:15, July 12, 2022  181:23-182:5, July 12, 2022		X	X			X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
100:16	100:11-24	Page: 100 11 Q. I'd like to ask you some detail 12 about the conversation with respect to Voting 13 Rights Act compliance. 14 What do you remember of that conversation 15 that touched on Voting Rights Act compliance? 16 ATTORNEY HUNKER: Objection. 17 Legislative privilege. 18 ATTORNEY CYCON: Objection, form. 19 THE WITNESS: Within the Zoom 20 conversation that we had? 21 BY ATTORNEY PERALES: 22 Q. That included Senator Huffman? 23 A. I do not recall the conversation 24 going into the Voting Rights Act compliance.	90:19-90:22, July 12, 2022  113:25- 114:13, July 12, 2022  115:4-115:15, July 12, 2022  181:23-182:5, July 12, 2022		X	X	X		X	LP2.
101:2	100:25- 101:13	Page: 100 25 Q. Do you remember the conversation Page: 101 1 going into the use of race in the mapping? 2 ATTORNEY HUNKER: Objection. 3 Legislative privilege to the extent his 4 answers require communications. 5 THE WITNESS: I don't recall that 6 coming up in that specific conversation. 7 I have to think about it. I recall a 8 conversation with Anna. I don't recall 9 if it was that Zoom or a different one. 10 I don't know if Senator Huffman was 11 there. So it's hard for me to tell you 12 which one it was. I know we're dealing 13 with specific privileges, so...	90:19-90:22, July 12, 2022  113:25- 114:13, July 12, 2022  115:4-115:15, July 12, 2022  181:23-182:5, July 12, 2022		X	X	X		X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
101:19	101:15-25	Page: 101 15 Q. You anticipated my next question, 16 which was whether in any conversations with Anna 17 Makin you addressed the topic of Voting Rights Act 18 compliance. 19 ATTORNEY HUNKER: Objection. 20 Legislative privilege. 21 THE WITNESS: With my 22 conversations with Anna, she did not ask 23 me directly whether the map complied with 24 the Voting Rights Act or anything like 25 that. No.	90:19-90:22, July 12, 2022  113:25- 114:13, July 12, 2022  115:4-115:15, July 12, 2022  181:23-182:5, July 12, 2022		X		X		X	LP2.



Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
129:21	129:18- 130:7	Page: 129 18 Q. Tell me what was discussed in that 19 meeting. It's September 11, so it's before the 20 Unified map. 21 ATTORNEY HUNKER: Objection. 22 Legislative privilege. 23 Q. You may answer. 24 A. I think this goes to our 25 conversations before about the September 20 Unified Page: 130 1 map. I think this was at this point from my 2 recollection -- and this is what I was trying to 3 remember the first time around -- when Chris wanted 4 to walk through -- we were getting to closer to 5 final products and wanted to work through the 6 contours of it with Anna and with Senator Huffman, 7 I believe.	90:19-90:22, July 12, 2022  113:25- 114:13, July 12, 2022  115:4-115:15, July 12, 2022  181:23-182:5, July 12, 2022		X	X			X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
130:22	130:19- 131:14	Page: 130 19 Q. What specific feedback did Ms. Makin 20 give you in terms of configuration of the 21 districts? 22 ATTORNEY HUNKER: Objection. 23 Legislative privilege. 24 THE WITNESS: I recall a series of 25 questions. I don't remember the contours Page: 131 1 of those specifically, what those 2 questions were. Everything was kind of a 3 blur during that period of time, to be 4 honest with you. 5 So the only thing that I recall 6 was a comment about how our version of 7 the congressional map looked a lot like 8 something they had developed on the 9 senate side for one of the districts. 10 And that's the only comment that 11 really jumps out to me from that entire 12 Zoom. It was interesting only because we 13 had done things completely independently 14 from each other.			X	X	X		X	LP2.
131:18	131:16-20	Page: 131 16 Q. Do you recall whether it was a 17 majority minority district? 18 ATTORNEY HUNKER: Objection. 19 Legislative privilege. 20 THE WITNESS: It was not.			X	X			X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
132:1	131:22- 132:13	Page: 131 22 Q. Thank you. 23 Do you recall whether either you or Chris 24 described anything of your mapping methodology to 25 Ms. Makin in that meeting? Page: 132 1 ATTORNEY HUNKER: Objection to the 2 extent it calls for legislative 3 privilege. 4 THE WITNESS: Again, I recall a 5 meeting that I had with Chris and Anna, 6 and I'm not sure if it's this one or a 7 different one, so I want to be clear 8 about that. Since we're going around the 9 same thing, I want to answer this one. 10 I don't think Senator Huffman was 11 on this one, to be clear. Anna had asked 12 me if I had used race data when drawing 13 the map, and I said no.			X	X			X	LP2.
132:17	132:15-23	Page: 132 15 Q. What does it mean not to use race 16 data specifically? 17 ATTORNEY HUNKER: Objection to the 18 extent it calls for legislative 19 privilege. 20 THE WITNESS: I had gotten 21 direction from Chris on what that meant 22 previously. So that was why I was able 23 to answer that question for Anna then.	129:9-129:16, July 12, 2022		X	X	X		X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
262:3	261:25- 262:11	Page: 261 25 Q. And do you know if any information Page: 262 1 that Mr. Gober relayed came from state legislators 2 or their staff? 3 ATTORNEY HUNKER: Objection. 4 Legislative privilege to the extent the 5 answer would call for it. 6 THE WITNESS: As I've testified 7 before, he would send me a file and tell 8 me he had gotten it from the legislature 9 and ask me to look at it, make 10 adjustments or not based off of the 11 feedback he had gotten.	97:6-97:14, July 12, 2022  102:10-103:4, July 12, 2022  138:16- 139:15, July 12, 2022  140:8-141:1, July 12, 2022  142:6-10, July 12, 2022  143:6-15, July 12, 2022	X	X	X			X	LP3 to the extent the answer concerns Kinkaid's knowledge that Gober received at least one map originating from or produced by the Senate or the Senate redistricting staff. See Gober Dep. 102:10-103:4, 138:6-139:15.  But for the foregoing, LP2.

Context for Privilege Objection			Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
262:19	262:13-263:13	Page: 262 13 Q. Okay. And what -- you mentioned you 14 spoke with Senator Huffman and Ms. Makin during the 15 drawing of the unified congressional map. What 16 political, strategic, or policy feedback did you 17 get from Senator Huffman or Ms. Makin that you 18 integrated in this map? 19 ATTORNEY HUNKER: Objection. 20 Legislative privilege. 21 THE WITNESS: The meeting that I 22 had with Senator Huffman was a 23 presentation meeting. So what happened 24 was Chris and I walked through the map, 25 the Unified map, as it was at the time. Page: 263 1 I guess it was -- again, I guess it was 2 11 and it's now 20 or something. Like we 3 talked about, the dates are all fuzzy. 4 But when we met with Senator 5 Huffman, we just kind of walked through 6 it, why we had done what we did, what we 7 were thinking and answered any questions 8 she had, but I don't recall there being 9 many. 10 But any other conversations about 11 feedback or anything else would have been	90:19-90:22, July 12, 2022		X	X	X		X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
263:19	263:15- 264:1	Page: 263 15 Q. Okay. And are you aware of any 16 political, strategic, or policy input that came 17 from Senator Huffman or Ms. Makin via Chris to you 18 as a confirm -- 19 ATTORNEY HUNKER: Objection. 20 Legislative privilege. 21 THE WITNESS: Apart from, again, 22 what I said about receiving that files 23 from Chris and being told not to touch 24 this or to touch that, that was pretty 25 much the extent of my direction from Page: 264 1 Mr. Gober.	97:6-97:14, July 12, 2022  102:10-103:4, July 12, 2022  138:16- 139:15, July 12, 2022  140:8-141:1, July 12, 2022  142:6-10, July 12, 2022  143:6-15, July 12, 2022	X	X	X			X	LP2.

Context for Privilege Objection			Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING	
264:6	264:3-265:10	<div>Page: 264</div> <div>3 Q. And can you recall what the this and</div> <div>4 that were, things that you weren't supposed to</div> <div>5 touch that came from state senate?</div> <div>6 ATTORNEY HUNKER: Objection.</div> <div>7 Legislative privilege.</div> <div>8 THE WITNESS: Sure. There's</div> <div>9 various things we can go through here. I</div> <div>10 guess since this is legislative</div> <div>11 privilege, I'll just talk through them,</div> <div>12 because they are documented anyway.</div> <div>13 The legislature had made changes</div> <div>14 to 15 and took the 28 out of Hidalgo</div> <div>15 County after we had submitted it to the</div> <div>16 legislature. And it came in the</div> <div>17 legislature. I don't know why they made</div> <div>18 that change, and I didn't get any</div> <div>19 rationale for it.</div> <div>20 So I was told that the legislature</div> <div>21 was happy with the 15 as they had drawn</div> <div>22 it and not to mess with it. So we didn't</div> <div>23 mess with it. Didn't get any other</div> <div>24 rationale as to why.</div> <div>25 There were amendments in Harris</div> <div>Page: 265</div> <div>1 County. Those were amendments that were</div> <div>2 adopted on the floor. But those were</div> <div>3 amendments I believe that were sent over</div> <div>4 from the incumbent or from somewhere, I'm</div> <div>5 not sure where. Those were -- I was told</div> <div>6 to work around them.</div> <div>7 And the same thing with Dallas,</div> <div>8 there were a couple edits there that I</div> <div>9 was told this is what you know, the</div>	97:6-97:14, July 12, 2022								
			102:10-103:4, July 12, 2022								
			138:16-139:15, July 12, 2022	X	X	X	X	X	X	LP2.	
			140:8-141:1, July 12, 2022								
			142:6-10, July 12, 2022								
			143:6-15, July 12, 2022								

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
265:14	265:12-20	Page: 265 12 Q. And in Dallas, what was the "this" 13 at issue? 14 ATTORNEY HUNKER: Objection. 15 Legislative privilege. 16 THE WITNESS: The state wanted 17 to -- sorry. The state wanted Texas 33 18 to be closer to its current footprint 19 than the 3 that we had created in the 20 Unified plan.	97:6-97:14, July 12, 2022  102:10-103:4, July 12, 2022  138:16- 139:15, July 12, 2022  140:8-141:1, July 12, 2022  142:6-10, July 12, 2022  143:6-15, July 12, 2022	X	X				X	LP2.



Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
265:23	265:22- 266:6	Page: 265 22 Q. Okay. Anything else? 23 ATTORNEY HUNKER: I'm going to 24 object on legislative privilege. To the 25 extent you can answer. Page: 266 1 THE WITNESS: Anything else. 2 Let's see here. 3 Those are the places where I 4 recall specific direction not to touch 5 this or to adjust that. Does that make 6 sense?	97:6-97:14, July 12, 2022  102:10-103:4, July 12, 2022  138:16- 139:15, July 12, 2022  140:8-141:1, July 12, 2022  142:6-10, July 12, 2022  143:6-15, July 12, 2022	X	X				X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
287:13	287:9-21	<p>Page: 287</p> <p>9 Q. We talked about Congressman Ellzey</p> <p>10 and Congresswoman Van Duyne. Did you get any</p> <p>11 other</p> <p>12 political, strategic, or policy guidance from</p> <p>13 Mr. Gober about drawing those particular districts?</p> <p>14 ATTORNEY HUNKER: I'm going to</p> <p>15 object to the extent it calls for</p> <p>16 legislative privilege.</p> <p>17 THE WITNESS: Other than what I've</p> <p>18 said about 33 and that the legislature</p> <p>19 wanted that in the current footprint, and</p> <p>20 raising the Republican percentages in</p> <p>21 6 and 24, those were -- those were the</p> <p>primary objectives of those two seats.</p>	<p>97:6-97:14, July 12, 2022</p> <p>102:10-103:4, July 12, 2022</p> <p>138:16- 139:15, July 12, 2022</p> <p>140:8-141:1, July 12, 2022</p> <p>142:6-10, July 12, 2022</p> <p>143:6-15, July 12, 2022</p>	X	X		X		X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
318:8	318:6-21	Page: 318 6 Q. Did you ever talk with Anna Makin or 7 Sean Opperman or Senator Huffman about it? 8 ATTORNEY HUNKER: I'm going on 9 legislative privilege. 10 THE WITNESS: He was in the 11 background, and I didn't have any 12 conversations with Sean. I spoke to Anna 13 and I spoke to Senator Huffman about the 14 congressional map. 15 As I testified before, I believe 16 they may have made a comment about how a 17 couple of -- one of the senate districts 18 looked like one of the congressional 19 seats we drew, and that was the extent of 20 my conversations over the Texas Senate 21 map from conception to enactment.			X	X			X	LP2.
318:24	318:23-319:6	Page: 318 23 Q. Which senate district? 24 ATTORNEY HUNKER: Objection. 25 Legislative privilege. Page: 319 1 THE WITNESS: I think at the time 2 it was Texas 7, became Texas 38. It 3 overlapped a seat in Houston. 4 That was the one that we -- they 5 were marked with something similar to 6 what they had created.			X	X			X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
27:12	27:3-14	Page: 27 3 Q Thank you. 4 Now, we can focus in on Texas congressional 5 districts. 6 You testified in your individual capacity 7 that while working on the redistricting plan for South 8 Texas, after you created the unified plan, that you 9 were instructed to use a version of CD15 that had come 10 from the Senate. 11 Do you recall that testimony? 12 MS. HUNKER: Objection; legislative 13 privilege. 14 THE WITNESS: Yes.	97:6-97:14, July 12, 2022  102:10-103:4, July 12, 2022  138:16-139- 15, July 12, 2022  140:8-141:1, July 12, 2022  142:6-10, July 12, 2022  143:6-15, July 12, 2022	X	X		X		X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
27:20	27:16-24	Page: 27 16 Q And did you then follow that instruction and 17 incorporate the Senate draft of CD15 in your 18 subsequent maps? 19 MR. CYCON: Object to form. 20 MS. HUNKER: Objection; legislative 21 privilege. 22 THE WITNESS: I believe I took the map I was 23 given and worked off of that map at that point in 24 time.	97:6-97:14, July 12, 2022  102:10-103:4, July 12, 2022  138:16-139- 15, July 12, 2022  140:8-141:1, July 12, 2022  142:6-10, July 12, 2022  143:6-15, July 12, 2022	X	X	X	X		X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
30:22	30:20- 31:1	Page: 30 20 Q And did you understand the source of that 21 map to be the Texas Senate? 22 MS. HUNKER: Objection; legislative 23 privilege to the extent the answer calls for it. 24 THE WITNESS: Some of them, yes, or at least 25 a couple of them. I can't remember the number. Page: 31 1 I would not say "all."	97:6-97:14, July 12, 2022  102:10-103:4, July 12, 2022  138:16-139- 15, July 12, 2022  140:8-141:1, July 12, 2022  142:6-10, July 12, 2022  143:6-15, July 12, 2022	X	X	X	X		X	LP2.

							No Otherwise Legislatively Privileged			
Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
47:2	46:24- 48:5	Page: 46 24 Q Would you say that it was an iterative 25 process with you drawing and the Senate drawing, going Page: 47 1 back and forth, exchanging versions of CD15? 2 MS. HUNKER: Objection to the extent it 3 calls for legislative privilege. 4 THE WITNESS: I would say that it's not 5 specific to 15. I think there were changes 6 across the state, and so again -- I can say the 7 same thing again. We submitted unified to the 8 State. Well, "we." Chris submitted unified to 9 the State -- let me be specific about that -- and 10 then the Senate or whoever else was making 11 changes to it. 12 Chris would get a file, send it to me at 13 some point in time, ask me to look at it. We 14 would probably hop on a Zoom, at least a couple 15 of them, and walk through what the changes were, 16 any political concerns that we may have had with 17 how a district got more Republican or less 18 Republican, that sort of thing, and we would -- 19 Chris would give me directions on how to make 20 changes or not make changes. I would do what I 21 could to make those changes where possible. 22 And then there were times where I would tell 23 him -- and I don't remember specifically what 24 they were, but I remember generally that there 25 were times where I would tell him it's impossible Page: 48 1 to achieve X if we're going to do Y, the State's	97:6-97:14, July 12, 2022  102:10-103:4, July 12, 2022  138:16-139- 15, July 12, 2022  140:8-141:1, July 12, 2022  142:6-10, July 12, 2022  143:6-15, July 12, 2022	X	X		X		X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
48:8	48:7-12	Page: 48 7 Q Was that also the case with respect to CD15? 8 MS. HUNKER: Objection to the extent to 9 calls for legislative privilege. 10 THE WITNESS: Again, I think with 15, we got 11 to a spot where the State said to Chris this is 12 what we're going to go with.	97:6-97:14, July 12, 2022  102:10-103:4, July 12, 2022  138:16- 139:15, July 12, 2022  140:8-141:1, July 12, 2022  142:6-10, July 12, 2022  143:6-15, July 12, 2022	X	X		X		X	LP2.



Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
48:22	48:14- 49:4	<p>Page: 48</p> <p>14 Q I guess I'm just wondering if that was</p> <p>15 earlier in the process or later in the process,</p> <p>16 whether, the first time you see the CD15, that's less</p> <p>17 Republican than you drew it --</p> <p>18 A Sure.</p> <p>19 Q -- was that also the time when you were told</p> <p>20 you can't touch this?</p> <p>21 A I don't recall that. I don't --</p> <p>22 MS. HUNKER: Objection; legislative</p> <p>23 privilege.</p> <p>24 THE WITNESS: I don't recall if it was the</p> <p>25 first time that I was told that or not. I do</p> <p>Page: 49</p> <p>1 know that the first time I got the map back, it</p> <p>2 was significantly changed. I don't recall at</p> <p>3 what point in that process I was told not to</p> <p>4 touch it anymore.</p>	<p>97:6-97:14, July 12, 2022</p> <p>102:10-103:4, July 12, 2022</p> <p>138:16- 139:15, July 12, 2022</p> <p>140:8-141:1, July 12, 2022</p> <p>142:6-10, July 12, 2022</p> <p>143:6-15, July 12, 2022</p>	X	X		X		X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
127:1	126:22- 127:7	Page: 126 22 Q And during the House process, did you review 23 amendments as they were occurring to see if they met 24 preferences set by -- policy preferences set by 25 Mr. Gober's clients or any other political metrics? Page: 127 1 MR. CHANG: I'm going to object on 2 legislative privilege grounds. 3 THE WITNESS: I don't recall the same 4 back-and-forth when it was over on the House side 5 versus when it was moving through the Senate. 6 Yeah, there may have been like one or two things 7 that he sent me, but I don't recall that, yeah.	77:4-77:21, July 12, 2022	X	X		X		X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
137:5	137:2-13	Page: 137 2 Q The second Zoom, not the one with Senator 3 Huffman but the other one, do you remember what was 4 discussed during that Zoom? 5 MS. HUNKER: I'm going to object on 6 legislative privilege grounds. 7 THE WITNESS: There was a -- I believe the 8 second Zoom was -- so we had the Zoom with 9 Senator Huffman about a week out from unified. I 10 believe there was another Zoom around the time 11 unified was sent over afterward, where I was 12 asked by Anna if I had used race data when 13 drawing the map, and I answered no.			X	X			X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
137:17	137:15-20	Page: 137 15 Q Is there anything else you recall 16 discussing? 17 MS. HUNKER: Again, objection on legislative 18 privilege grounds. 19 THE WITNESS: No. That's all I remember 20 about that conversation.	90:19-90:22, July 12, 2022  113:25- 114:13, July 12, 2022  115:4-115:15, July 12, 2022  181:23-182:5, July 12, 2022				X		X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
134:16 134:18	134:13-24	Page: 134 13 Q Okay. Did you provide any checks along the 14 way in terms of performance or other metrics as the 15 map was proceeding through the amendment process? 16 MR. CHANG: Objection; legislative 17 privilege. 18 MS. HUNKER: Same objection. 19 THE WITNESS: Yeah, there were a couple of 20 amendments. I don't remember which ones. There 21 were a lot of amendments proposed, but Chris 22 would ask me can you look at amendment whatever, 23 and tell me what this would do to us in district 24 whatever it was related to.	77:4-77:21, July 12, 2022	X	X		X		X	LP2.

Privilege Objection	Context for Privilege Objection	Deposition Excerpt	Waived in Chris Gober Deposition	Legislative Privilege is a Personal Privilege	Waiver (Third Party)	Fact-based Information	No Otherwise Legislatively Privileged Information Elicited	Publicly Disclosed	Privilege Should Yield	RULING
135:21 135:23	135:17- 136:2	Page: 135 17 Q Okay. Did you ever produce demographic 18 change sheets at all on either amendments or proposals 19 along the way you can identify? 20 MR. CYCON: Object to form. 21 MR. CHANG: Objection; legislative 22 privilege. 23 MS. HUNKER: Same objection. 24 THE WITNESS: I don't recall generating 25 change reports. I do recall generating a change Page: 136 1 report on the enacted plan. I don't recall doing 2 that with any of the amendments or drafts.		X	X	X	X		X	LP2.